

ETHICS AND HUMAN RESOURCE MANAGEMENT

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There are numerous ethical issues in terms of human resource management which may be enumerated as follows:

(a) **Employee rights and employee duties** : Rights and duties of employees as stakeholders of the firm along with issues involved with it can be described as follows:

Employees Rights

Issues Involved

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| (i) Right to freedom from discrimination | <ul style="list-style-type: none"> a. Equal opportunities b. Affirmative action c. Reverse discrimination d. Sexual and racial harassment |
| (ii) Right to Privacy | <ul style="list-style-type: none"> a. Health and drug testing b. Work- life balance c. Presenteeism d. Electronic privacy and data protection |
| (iii) Right to due process | <ul style="list-style-type: none"> a. Promotion b. Firing c. Disciplinary proceedings |
| (iv) Right to participation and association | <ul style="list-style-type: none"> a. Participation of workers in works councils and trade unions b. Participation in the company's decisions |
| (v) Right to healthy and safe working conditions | <ul style="list-style-type: none"> a. Working conditions b. Occupational health and safety |
| (vi) Right to fair wages | <ul style="list-style-type: none"> a. Equal pay for equal work b. Industrial action |
| (vii) Right to freedom of conscience | <ul style="list-style-type: none"> c. New forms of work |
| (viii) Right to work | <ul style="list-style-type: none"> a. Whistle blowing and speech b. Fair treatment in the interview c. Non-discriminatory rules for recruitment |

Employee duties

Issues involved

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|---|---|
| (i) Duty to comply with labour contract | (a) Acceptable level of performance |
| (ii) Duty to comply with the law | (b) Work quality |
| (iii) Duty to respect the employer's property | (c) Loyalty to the firm |
| | (a) Bribery |
| | (b) Working time |
| | (a) Working time |
| | (b) Unauthorized use of company resources for private purpose |
| | (c) Fraud, theft, embezzlement |

(b) **Compensation and working condition** : Compensation comprise of wages and salaries. Wages are the principal means for satisfying the basic economic needs of the worker and the workers' family. This is a component of cost of production. In developed countries, the determination of wages and working conditions result primarily from:

- (i) The competition among employers for desirable workers which compels them to offer high wages and good working conditions.

(ii) Certain minimum conditions set by the law, such as minimum wage laws, fair labour standards and health and safety regulation etc. but not rely solely on the market.

In less developed countries, there will be the mass of unemployed, desperately poor people, constituting a pool of labours willing to accept bare subsistence wages/salaries.

The working condition includes mainly two aspects i.e. health & safety and job satisfaction. Health and safety includes the following work place hazards:

- Mechanical injury
- Extreme heat and cold
- Textile fibre dust
- Chemical fumes
- Noisy machinery.
- Electrocution
- Burns
- Rock-dust.
- Skin irritants
- Radiation
- Mercury, lead, beryllium, arsenic, corrosives, poison etc.

Employer has a duty in such case to take steps to ensure that the workers are:

- not being unfairly manipulated into accepting a risk unknowingly, unwillingly (i.e. all information about hazards to the jobs are made known to the workers and they will be allowed to work as per their free consent.)
- not working without due computation (i.e. wage/salary should be offered in such a way that reflect the risk premium prevalent in other similar competitive labour markets.)
- ensured against unknown hazards (with suitable health insurance programmes.)

(c) Discrimination: The word 'discrimination' in the proper sense means 'to make distinctions'. However, in the context of employment issues people nearly exclusively talk of 'discrimination' when in fact they mean 'unfair' or 'unjust' discrimination. Discrimination in business context occurs when employees receive preferential (or less preferential) treatments on grounds that are not directly related to their qualification and performance in the job. The most common bases for discrimination in the workplace are race, gender, age, religion, disability and nationality. However, any factor that is unrelated to job performance might be used to discriminate against employees, including marital status physical appearance, sexual orientations, or even gender reassignment. Accordingly, many organizations now are having to come to terms with the fact their employees increasingly come from a range of different religious, racial, national and cultural groups, making the complete issue of managing diversity a prominent feature of contemporary business discourse. In organizational context, discriminatory practices now widely recognized in recruitment practices, screening practices, promotion practices, conditions of employment, job descriptions and other related spheres of activities.

Avoiding discrimination

- Attempting to become a truly non-discriminatory employer by continuously monitoring and arranging to eliminate the factors responsible for discrimination.
- There should be compliance with law and statute.
- Employers must be aware of some subtle and surprising sources of discrimination.
- Following an accurate job description that details the activities or responsibilities involved in a position.
- Following the job specification listing the qualifications required to perform the job as described.
- Transparent and fair recruitment and selection process.
- Maintaining unbiased equality considerations.

Although the goal of eliminating discrimination in employment has generally been accepted in business, people are still divided over the appropriate means. Advocates of affirmative action argue that special

programs are required as a matter of "simple justice". Victims of discrimination, according to them, deserve some advantage. Preferential treatment is necessary to ensure equality of opportunity. Opponents counter that if it is unjust to discriminate against racial minorities and women on account of their race or sex, then it is similarly unjust to give them preference for the same reason.

(d) Employee Privacy: The fundamental right to privacy consists of an individual's right to control information about oneself, and to control situations where such information could be gleaned.

According to Michele Simmes (1994), there are four different types of privacy we might want to protect:

- **Physical privacy:** Physical inaccessibility to others, and the right to 'one's own space'. e.g., Organizations which place surveillance cameras in employees' private rest areas might be said to compromise physical privacy,
- **Social privacy:** Freedom to interact with other people and in which ever way we select e.g., some employers may threaten social privacy by suggesting that employees should not bring their firm into 'disrepute' by behaving in an 'unacceptable', 'immoral', or 'illegal' way during their social lives.
- **Informational privacy:** Determining how, when and to what extent private data about employees or organizations can be released to other. This can be breached, e.g. when employers hire private security firms to make investigations about employees without due and reasonable cause.
- **Psychological privacy:** Controlling emotional and cognitive inputs and outputs, and not being compelled to share private thoughts and feelings. e.g., psychological privacy is threatened when retailer introduce programmes aimed at making sure employees smile and appear happy in front of customer.

(e) Working conditions: The right to healthy and safe working conditions has been one of the very first ethical concerns for employees, right from the early part of industrial revolution. It includes the following:

- o Presenteeism
- o Fair wages
- o Freedom of conscience
- o Freedom of speech in workplace
- o The right to work
- o Flexible working patterns
- o Employee participation and associations

(f) Sexual Harassment : The issue of sexual harassment is getting wide attention by organizations and media because of entry of female employees, especially in non- traditional work environment. In India and abroad, courts have held in several cases that employers have an affirmative duty to maintain a workplace free of sexual harassment and intimidation. Over the years employers have made considerable progress towards limiting overt forms of sexual harassment of female employees. These include unwanted physical touching, recurring requests for dates when it is made clear that the concerned woman employee is not interested, and coercive threats that the woman will lose her job if she refuses a sexual proposition. Even attempt to sharing obscene jokes with female employees or before female employees is treated as a component of sexual harassment. The problems today are likely to surface around more subtle forms of sexual harassment i.e. unwanted looks or comments, off-colour jokes, sexual artifacts like nude calendars in workplace or misinterpretations of where the line between "being friendly" and "harassment" begins.

Meaning and scope of sexual harassment :

The term 'sexual harassment' includes harassment on the basis of sex that has the purpose or effect of substantially interfering with persons work performance or creating an intimidating, hostile, or offensive work environment. The guidelines issued by the Equal Employment Opportunity Commission (EEOC) of the U.S.A define sexual harassment as unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature that takes place under any of the following conditions.

- i. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
- ii. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.
- iii. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Sexual harassment is a case of unequal power in the work-place. It is about one individual controlling or threatening another individual. In other words, a person uses coercive power over another person with the intention of satisfying some of his sexual needs. It is not only wrong, but illegal also.

Situations of sexual harassment:

In an organization, there could be two situations where sexual harassments may be alleged to have been committed. These include:

- (i) **Quid Pro Quo** : In a quid pro quo situation, the victim is forced to offer sexual favours in return for, say, either a promotion, a posting, a non transfer, or a raise in pay. This is a straight forward situation, where it is easy to establish the guilt or the lack of it.
- (ii) **Hostile Work Environment** : This is a more complex scenario. The word 'hostile' can mean a variety of thing, from obscene remarks to gender-based discrimination to making physical advances. The effect, however, should be that, it interferes with the concerned employees performance and creates an offensive work environment.

Guidelines for Employers to check Sexual Harassment

Employers should have a conscious playing to check any type of sexual harassment in the workplace. If in any case, sexual harassment is proved, the employers will not only earn a bad name, but also be liable to pay financial compensation to the victim employee. Thus, the following steps may be taken by the employers to minimize liability if sexual harassment claim is filed against the organization and to prevent such claims, the organizations need to:

- (i) take all complaints about sexual harassment seriously. When confronted with sexual harassment complaints or when sexual conduct is observed in the workplace, the best reaction is to address the complaints or stop the conduct.
- (ii) discipline managers and employees involved in sexual harassment through warning, punishment etc.
- (iii) issue a strong policy statement conducting such behaviour as may constitute an act of sexual harassment. The policy should include a workable definition of sexual harassment, spell out possible actions against those who harass others and make it clear that retaliatory action against an employee who makes charges will not be tolerated.
- (iv) inform all employees about the policy prohibiting sexual harassment and of their rights under the policy.
- (v) set up an elaborate complaint procedure in regard to sexual harassment and initiate a management response system that includes immediate investigation by senior managers for necessary actions.
- (vi) keep elaborate records of sexual harassment complaints, investigation and actions taken.
- (vii) organize training sessions with supervisors and manages to increase their awareness of the issue related with sexual harassment.

(g) Whistle- Blowing : Whistle- blowing can be defined as the release of information by a member or former member of an organization that is evidence of illegal and/or immoral conduct in the organization or conduct in the organization that is not in the public interest. There are several points to observe in this definition. First, blowing the whistle is something that can be done only by a member of an organization. Whistle-blowing is an action that takes place within an organization. The information involved in this case is obtained typically by an employee in the course of his/her employment as a part of the job.

Second, there must be information. Merely to dissent publicly with an employer is not in itself to blow the whistle; whistle-blowing necessarily involves the release of non- public information.

Third, the information is generally evidence of some significant kind of misconduct on the part of an organization or some of its members. The term whistle- blowing is usually reserved for matters of substantial importance.

Fourth, the information must be released outside normal channels of communication. In most organizations, employees are directed to report illegal instances and improper conduct to their immediate superiors, and other means often exist for employees to register their concerns. Some organization have their announced policy of encouraging employees to submit any suspicions of misconduct to any senior level superior such as CEO with an assurance of confidentiality. Others have a designated official- often called an ombudsman- for handling employee complaints. Whistle- blowing does not necessarily involve "going public" and revealing information out side the organization. There can be internal as well as external whistle -blowing. A definition of whistle- blowing also needs to take into account to whom the whistle is blown. In both internal and external whistle-blowing, the information must be revealed in ways that can reasonably be expected to bring about a desired change. Merely passing on information about wrong doing to a third party does not necessarily constitute whistle- blowing.

Fifth, the release of information must be something that is done voluntarily, as opposed to being legally required, although the distinction is not always clear.

Sixth, whistle- blowing must be undertaken as a moral protest; that is the motive must be to correct some wrong and not to seek revenge or personal advancement. This is not to deny that a person with incriminating evidence could conceivably be justified in coming forth, whatever be the motive. People "go public" for all sorts of reasons - a common one being fear of their own legal liability and by doing so, they often benefit the society.

Putting all these points together, a more adequate definition of whistle- blowing is as follows: whistle-blowing is the voluntary release of non- public information, as a moral protest, by a member or former member of an organization outside the normal channels of communication to an appropriate audience about illegal and/or immoral conduct in the organization or conduct in the organization that is opposed in some significant way to the public interest.

The ethical justification of whistle-blowing might seem to be obvious in view of the laudable public service that whistle-blowers provide. However, the main stumbling block in justifying whistle-blowing is the duty of loyalty that employees have to the organisation of which they are a part. The public service that whistle-blowers provide has to be weighted against the disruptive effect that the disclosure of information has on bonds of loyalty.

According to one argument, an employee is an agent of an employer. An agent is a person who is engaged to act in the interests of another person (called a principal) and is authorized to act on that person's behalf. This relation is typical of professionals, such as lawyers and accountants, who are called upon to use their skills in the service of a client. Employees are also considered to be agents of an employer in that they are hired to work for the benefit of the employer. Specifically, an employee, as an agent, has an obligation to work as directed, to protect confidential information, and above all, to be loyal. All these are seemingly violated when an employee blows whistle.

The loyal agent argument receives considerable support from the law, where the concept of agency and the obligation of agents are well developed. The law of agency is a rich source of relevant insights about the employment relation. At first glance, a whistle blower is a disloyal agent who backs out of an agreement that is essential part of the employer- employee relation. A whistle- blowing employee, according to the loyal agent argument, is like a lawyer who sells out a client- clearly a violation of the legal profession's code of ethics. Closer examination reveals that the argument is not as strong as it appears. Although employees have an obligation of loyalty that is not shared by a person out side the organization, the obligations is not without its limits. Whistle-blowing is not something to be done without adequate justification, but at the same time, it is not something that can never be justified.

First, the law of agency does not impose an absolute obligation on employees to do whatever they are told. Rather, an agent has an obligation, to obey all reasonable directives of the principal. This is interpreted to exclude illegal or immoral even if specifically instructed by a superior to do so.

Second, the obligations of an agent are confined to the need's of the relation. In order for a lawyer to represent a client adequately, it is necessary to impose a strong obligation of loyalty, but the obligation of loyalty required for employees to do their job adequately is less stringent.

The loyal agent argument does not serve to show that whistle -blowing can never be justified. The obligations that employees have as agents of an organization are of great moral importance, but they do have limits. Specifically, the agency relation does not require employees to engage in illegal or immoral activities or to give over their whole life to an employer.

Whistle- blowing is more likely to be effective when an employee presents the charge in an objective and responsible manner. It is especially important that a whistle blower stick to the important issues and refrain from conducting crusades or making personal attacks on the persons involved. Organizations often seek to discredit whistle- blower by picturing them as disgruntled misfits or crazy radicals, intemperate, wide ranging attacks undermine the whistle-blowers own credibility. Many whistle blower recommended developing a clear plan of action & without blowing the whistle impulsively, they think out each step and anticipate the probable consequences .

In so far as whistle blowing is justified because of some good to the public, it is important to blow the whistle only when there is a reasonable chance of achieving that good. Whistle blowing may be unsuccessful for many reasons. Sometimes, the fault lies with the whistle- blower who fails to make a case that attracts widespread concern or to advise an effective plan of action; other times it is simply that the organization is too powerful or the public not sufficiently responsive.